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FISCAL IMPACT STATEMENT

LS 6164

BILL NUMBER: HB 1031

NOTE PREPARED: Feb 5, 2004

BILL AMENDED: Jan 29, 2004

SUBJECT: Lake Access by an Easement.

FIRST AUTHOR: Rep. Pond

FIRST SPONSOR:

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill prohibits, except when granted written permission, constructing or maintaining a pier, a dock, or another structure that blocks or restricts an easement holder's access to or use of a public lake. The bill allows an easement holder to use certain structures that extend from the easement to the shoreline or into a lake. The bill authorizes the Natural Resources Commission to mediate disputes between easement holders. It authorizes judicial review of Commission actions. This bill also authorizes easement holders to form an association or a conservancy district to manage the easement. (The introduced version of this bill was prepared by the Natural Resources Study Committee.)

Effective Date: Upon passage.

Explanation of State Expenditures: (Revised) *Violations:* With respect to violations, IC 14-26-2-19 provides that the Department of Natural Resources (DNR) may seek and a court having jurisdiction may grant injunctive relief for the violation. This provision may cause the DNR to incur additional administrative expenses; however, the DNR should be able to absorb any additional expense given its current budget and resources.

Natural Resources Commission: The bill authorizes the Natural Resources Commission to mediate disputes between easement holders. The Commission may also have to modify rules. The Commission should be able to absorb any additional expenses given its current budget and resources.

Explanation of State Revenues: A person who violates the above provision commits a Class C infraction. If additional court cases occur, revenue to the state General Fund may increase if infraction judgments and court fees are collected. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund. If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed.

70% of the court fee would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures: (Revised) A party to an action by the Commission may seek judicial review in a county where the freshwater lake is located. This provision could result in additional court cases which could increase administrative expenses at the local level. However, the local units should be able to cover costs.

Explanation of Local Revenues: If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Natural Resources and the Natural Resources Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources:

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